IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 15TH NOVEMBER 2007 / 24TH KARTHIKA 1929

Bail Appl..No. 6915 of 2007()

(CRIME NO.686/2007 OF VADAKKEKARA POLICE STATION)
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PETITIONER/ACCUSED:

RAMESH KUMAR, AGED 35 YEARS,
S/O.V.L.GOPI, VALIYAVEETTIL, MURIKKUMPADAM,
AZHEEKAL P.O., KOCHI-10.

BY ADV. SRI.SOORAJ T.ELENJICKAL
SRI.M.A.JOSEPH MANAVALAN

RESPONDENT: COMPLAINANT:

STATE OF KERALA, THROUGH SUB INSPECTOR
OF POLICE, VADAKKEKARA POLICE STATION,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA.

BY PUBLIC PROSECUTOR SRI. JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 15/11/2007 ALONG WITH B.A.NO.6929 OF 2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

KSS

R.BASANT, J

B.A.Nos.6915 & 6929 of 2007

Dated this the 15th day of November, 2007

ORDER

Applications for anticipatory bail. Petitioners are accused 2 and 5. Altogether there are 6 accused persons. Accused 1, 4 and 6 have already been arrested. The crime is registered for the offence punishable under Section 379 I.P.C. The crux of the allegations against the petitioners is that in furtherance of the common intention of all of them accused 1 to 3 actually removed clandestinely about 150 ice racks which were left in the harbour. Accused 1 to 3 allegedly took part in the operation and the thieved ice racks were removed in a vehicle driven by the 3rd accused. Later, these ice racks were kept surreptitiously in the premises of the accused and in the vehicle of the 5th accused, it was removed. Investigation is in progress. The petitioners apprehend imminent arrest.

2. The learned counsel for the petitioners submits that the petitioners are absolutely innocent. In any view of the matter, the petitioners who, even admittedly, did not take part in the actual removal of the ice racks from the possession of the defacto complainant do not deserve to endure the trauma of arrest and detention. They may, in these circumstances, be granted anticipatory bail, it is prayed.

3. The learned Public Prosecutor opposes the application. The learned Public Prosecutor submits that custodial interrogation of

the petitioners is absolutely necessary to ascertain the entire truth. The learned Public Prosecutor has placed the case diary before me. He particularly relies on the confession statements of the arrested accused persons which clearly indicate the complicity of the petitioners in the whole episode. In these circumstances, the petitioners may not be permitted to arm themselves with an order of anticipatory bail. They may be directed to co-operate with the investigation, and to surrender before the Investigating Officer or the learned Magistrate having jurisdiction.

4. I find merit in the opposition by the learned Public Prosecutor. This, I am satisfied, is a fit case where the petitioners must appear before the learned Magistrate having jurisdiction or the Investigating Officer and then seek bail in the regular and ordinary course.

5. This application is, in these circumstances, dismissed, but I may hasten to observe that if the petitioners surrender before the Investigating Officer or the learned Magistrate and apply for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously.

(R.BASANT, JUDGE)

rtr/-